

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DONTE MCCLELLON, an individual

Plaintiff,

vs.

BANK OF AMERICA, N.A., a national  
banking association,

Defendant.

Case No. 2:19-cv-00394-JCC

**ANSWER TO PLAINTIFF'S  
COMPLAINT**

Defendant Bank of America, N.A. ("BANA") hereby provides its answers to the  
Complaint of Plaintiff Donte McClellon ("Plaintiff") as follows:

**I. PRELIMINARY STATEMENT**

1.1 In response to this paragraph, BANA admits the nature of the claims asserted by  
Plaintiff, and states that all claims other than that for an action under Article 4A of the UCC have  
been dismissed with prejudice by the Court. BANA denies all allegations of wrongdoing  
expressed or implied in this paragraph.

1.2 BANA neither admits nor denies the allegations contained in Paragraph 1.2 of the  
Complaint as it states a legal conclusion and therefore no response is required. To the extent  
further response is required, BANA denies the allegations and demands strict proof thereof.

1.3 BANA neither admits nor denies the allegations contained in Paragraph 1.3 of the Complaint as it states a legal conclusion and therefore no response is required. To the extent further response is required, BANA denies the allegations and demands strict proof thereof.

1.4 BANA denies the allegations of this paragraph.

1.5 BANA denies the allegations of this paragraph.

1.6 In response to this paragraph, BANA admits the nature of the claims asserted by Plaintiff, and states that all claims other than that for an action under Article 4A of the UCC have been dismissed with prejudice by the Court. BANA denies all allegations of wrongdoing expressed or implied in this paragraph.

1.7 BANA admits the allegations of this paragraph.

1.8 BANA denies the allegations of this paragraph.

1.9 BANA neither admits nor denies the allegations contained in Paragraph 1.9 of the Complaint as it states a legal conclusion and therefore no response is required. To the extent further response is required, BANA denies the allegations and demands strict proof thereof.

1.10 BANA admits the allegations of this paragraph.

1.11 In response to this paragraph, BANA admits that transactions in the stated amounts took place on the dates stated therein, but denies that the transactions were “fraudulent” as alleged.

1.12 BANA neither admits nor denies the allegations contained in Paragraph 1.12 of the Complaint as it states a legal conclusion and therefore no response is required. To the extent further response is required, BANA denies the allegations and demands strict proof thereof.

1 1.13 BANA neither admits nor denies the allegations contained in Paragraph 1.13 of  
2 the Complaint as it states a legal conclusion and therefore no response is required. To the extent  
3 further response is required, BANA denies the allegations and demands strict proof thereof.

4 1.14 BANA neither admits nor denies the allegations contained in Paragraph 1.14 of  
5 the Complaint as it states a legal conclusion and therefore no response is required. To the extent  
6 further response is required, BANA denies the allegations and demands strict proof thereof.

7 1.15 BANA neither admits nor denies the allegations contained in Paragraph 1.15 of  
8 the Complaint as it states a legal conclusion and therefore no response is required. To the extent  
9 further response is required, BANA denies the allegations and demands strict proof thereof.

10 1.16 BANA neither admits nor denies the allegations contained in Paragraph 1.16 of  
11 the Complaint as it states a legal conclusion and therefore no response is required. To the extent  
12 further response is required, BANA denies the allegations and demands strict proof thereof.

13 1.17 BANA states that it was notified of the allegedly unauthorized transfers within 60  
14 days of their purported occurrences, but denies the allegations of this paragraph to the extent  
15 Plaintiff alleges that they are governed by Regulation E.

16 1.18 BANA denies the allegations of this paragraph.

17 1.19 BANA denies the allegations of this paragraph.

18 1.20 BANA neither admits nor denies the allegations contained in Paragraph 1.20 of  
19 the Complaint as it states a legal conclusion and therefore no response is required. To the extent  
20 a response is required, BANA denies the allegations of this paragraph and states that claims  
21 related to a violation of Regulation E have been dismissed with prejudice by the Court.

22 1.21 BANA denies the allegations of this paragraph.

1.22 BANA denies the allegations of this paragraph.

1.23 BANA denies the allegations of this paragraph.

1.24 BANA denies the allegations of this paragraph and states that claims related to a violation of Regulation E have been dismissed with prejudice by the Court.

1.25 BANA denies the allegations of this paragraph.

1.26 BANA neither admits nor denies the allegations contained in Paragraph 1.26 of the Complaint as it states a legal conclusion and therefore no response is required. To the extent further response is required, BANA denies the allegations and demands strict proof thereof.

1.27 BANA neither admits nor denies the allegations contained in Paragraph 1.27 of the Complaint as it states a legal conclusion and therefore no response is required. To the extent further response is required, BANA denies the allegations and demands strict proof thereof.

1.28 BANA neither admits nor denies the allegations contained in Paragraph 1.28 of the Complaint as it states a legal conclusion and therefore no response is required. To the extent further response is required, BANA denies the allegations and demands strict proof thereof.

1.29 BANA lacks information sufficient to respond to the allegations of this paragraph and therefore denies them.

1.30 BANA lacks information sufficient to respond to the allegations of this paragraph and therefore denies them.

1.31 BANA lacks information sufficient to respond to the allegations of this paragraph and therefore denies them.

1.32 BANA neither admits nor denies the allegations contained in Paragraph 1.32 of the Complaint as it states a legal conclusion and therefore no response is required. To the extent

1 a response is required, BANA denies the allegations of this paragraph and states that all claims  
 2 other than for breach of Article 4A of the UCC have been dismissed with prejudice by the Court,  
 3 and a claim under Article 4A of the UCC does not allow for the recovery of “lost profits.”

4 1.33 BANA neither admits nor denies the allegations contained in Paragraph 1.33 of  
 5 the Complaint as it states a legal conclusion and therefore no response is required. To the extent  
 6 a response is required, BANA denies the allegations of this paragraph and states that all claims  
 7 other than for breach of Article 4A of the UCC have been dismissed with prejudice by the Court,  
 8 and a claim under Article 4A of the UCC does not allow for the recovery of “lost profits.”

9 1.34 BANA neither admits nor denies the allegations contained in Paragraph 1.34 of  
 10 the Complaint as it states a legal conclusion and therefore no response is required. To the extent  
 11 a response is required, BANA denies the allegations of this paragraph and states that all claims  
 12 other than for breach of Article 4A of the UCC have been dismissed with prejudice by the Court,  
 13 and a claim under Article 4A of the UCC does not allow for the recovery of “lost profits.”

14 1.35 BANA neither admits nor denies the allegations contained in Paragraph 1.35 of  
 15 the Complaint as it states a legal conclusion and therefore no response is required. To the extent  
 16 a response is required, BANA denies the allegations of this paragraph and states that all claims  
 17 other than for breach of Article 4A of the UCC have been dismissed with prejudice by the Court,  
 18 and a claim under Article 4A of the UCC does not allow for the recovery of “lost profits.”

19 1.36 BANA lacks information sufficient to respond to the allegations of this paragraph  
 20 and therefore denies them.

## 21 **II. ADDITIONAL INDISPUTABLE FACTS AND ARGUMENT**

22 2.1 BANA denies the allegations of this paragraph.

1           2.2     BANA neither admits nor denies the allegations contained in Paragraph 2.2 of the  
2 Complaint as it states a legal conclusion and therefore no response is required. To the extent  
3 further response is required, BANA denies the allegations and demands strict proof thereof.

4           2.3     BANA neither admits nor denies the allegations contained in Paragraph 2.3 of the  
5 Complaint as it states a legal conclusion and therefore no response is required. To the extent  
6 further response is required, BANA denies the allegations and demands strict proof thereof.

7           2.4     BANA neither admits nor denies the allegations contained in Paragraph 2.4 of the  
8 Complaint as it states a legal conclusion and therefore no response is required. To the extent  
9 further response is required, BANA denies the allegations and demands strict proof thereof.

10          2.5     BANA denies the allegations of this paragraph.

11          2.6     BANA neither admits nor denies the allegations contained in Paragraph 2.6 of the  
12 Complaint as it states a legal conclusion and therefore no response is required. To the extent  
13 further response is required, BANA denies the allegations and demands strict proof thereof.

14          2.7     BANA neither admits nor denies the allegations contained in Paragraph 2.7 of the  
15 Complaint as it states a legal conclusion and therefore no response is required. To the extent  
16 further response is required, BANA denies the allegations and demands strict proof thereof.

17          2.8     BANA neither admits nor denies the allegations contained in Paragraph 2.8 of the  
18 Complaint as it states a legal conclusion and therefore no response is required. To the extent  
19 further response is required, BANA denies the allegations and demands strict proof thereof.

20          2.9     BANA neither admits nor denies the allegations contained in Paragraph 2.9 of the  
21 Complaint as it states a legal conclusion and therefore no response is required. To the extent  
22 further response is required, BANA denies the allegations and demands strict proof thereof.

2.10 BANA neither admits nor denies the allegations contained in Paragraph 2.10 of the Complaint as it states a legal conclusion and therefore no response is required. To the extent further response is required, BANA denies the allegations and demands strict proof thereof.

2.11 BANA neither admits nor denies the allegations contained in Paragraph 2.11 of the Complaint as it states a legal conclusion and therefore no response is required. To the extent further response is required, BANA denies the allegations and demands strict proof thereof.

### III. PARTIES

3.1 BANA lacks information sufficient to respond to the allegations of this paragraph and therefore denies them.

3.2 BANA admits the allegations of this paragraph

### IV. EXERCISING OF RIGHTS

4.1 BANA denies that Plaintiff is entitled to a jury trial due to a contractual mutual waiver of such, which was exercised between the parties.

### V. PLAINTIFF'S PRAYER

BANA denies that Plaintiff is entitled to any relief.

### VI. GENERAL DENIAL

BANA denies each and every allegation contained in Plaintiff's Complaint not specifically admitted in the Answer.

### VII. AFFIRMATIVE DEFENSES

By way of further answer and/or affirmative defenses, BANA states and alleges that the Complaint should be dismissed in whole or in part based upon the following:

1. Plaintiff fails to state a claim upon which relief can be granted.
2. Plaintiff's claims are barred by unclean hands.





**DECLARATION OF SERVICE**

I, Jennifer L. Schnarr, hereby declare under penalty of perjury under the laws of the United States that on this 3<sup>rd</sup> day of June, 2019, the foregoing document was served on the Plaintiff via overnight delivery, at the address set forth below.

Donte McClellon  
7909 37<sup>th</sup> Avenue South  
Seattle, WA 98118

SIGNED at Seattle, Washington this 3<sup>rd</sup> day of June, 2019.

*s/Jennifer L. Schnarr*

Jennifer L. Schnarr, Legal Assistant